

**American Broadcasting Companies, Inc. and Journeymens and Production Allied Services of America and Canada International Union, Local No. 157, Petitioner and National Association of Broadcast Employees and Technicians, Petitioner.** Cases 2-RC-18867, 2-RC-18904, 2-RC-18905, and 2-RC-18906

September 11, 1981

## DECISION ON REVIEW AND ORDER

BY MEMBERS FANNING, JENKINS, AND  
ZIMMERMAN

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held in Case 2-RC-18867 before Hearing Officers Larry Singer and David Pollack of the National Labor Relations Board. On December 31, 1980, the Regional Director for Region 2 issued a Decision and Direction of Election in which she found appropriate the Petitioner's requested unit of approximately nine employees designated as transport coordinators in the Electronic News Gathering/Newsfilm division of the Employer's Television News department. Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Employer filed a timely request for review of the Regional Director's decision on the grounds that the said unit of transport coordinators is inappropriate, and that the only appropriate unit should include all of its approximately 1,460 unrepresented, nonexempt<sup>1</sup> office clerical employees at its various locations in New York City.

By telegraphic order dated February 12, 1981, the Board granted the Employer's request for review. On February 18, 1981, in accordance with the Regional Director's Decision and Direction of Election, the election was conducted and the ballots were impounded pending resolution of the request for review.

In addition, upon separate petitions duly filed under Section 9(c) of the Act, a consolidated hearing was held in Cases 2-RC-18904, 2-RC-18905, and 2-RC-18906 before Hearing Officer John Westhoff of the National Labor Relations Board. On February 25, 1981, the Acting Regional Director for Region 2 issued a Decision and Direction of Election in which he found appropriate, and directed elections in, three separate requested units of the Employer's employees: (1) a unit of approximately 26 PBX operators at the Employer's headquarters building at 1330 Avenue of the Americas, New

York, New York; (2) a unit of approximately 17 shipping, receiving, and supply clerks at the headquarters building and at the Employer's facility at 30 West 67th Street in New York City; and (3) a unit of approximately 83 mail and messenger operation employees at the headquarters and several other locations.

Thereafter, in accordance with Section 102.67 of the Board's Rules and Regulations, the Employer filed a timely request for review of the Acting Regional Director's decision, contending as it had in Case 2-RC-18867 that the only appropriate unit would encompass all of the Employer's unrepresented, nonexempt office clerical employees in New York City. The Employer also requested that Cases 2-RC-18904, 2-RC-18905, and 2-RC-18906 be consolidated for purposes of review with Case 2-RC-18867.

By telegraphic order dated April 1, 1981, the Board granted the request for review. On April 3, 1981, in accordance with the Acting Regional Director's Decision and Direction of Election, the elections were conducted and the ballots were impounded pending resolution of the request for review. Inasmuch as the above-mentioned cases raise common questions of law and fact, the Board has decided to consolidate them for consideration and decision upon review.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Employer is engaged in radio and television broadcasting throughout the United States. As indicated above, the Petitioners and Intervenor<sup>2</sup> in these cases seek to represent four separate groups of the Employer's employees who work at various facilities in New York City. There is no bargaining history for these employees.

The Employer contends that the four units at issue are inappropriate because they constitute a fragmentation of the Employer's clerical work force. The Employer asserts that the employees in question share a strong community of interest, based on common job functions, working conditions, wage structure, and fringe benefits, with hundreds of other clerical personnel employed by it in the New York City area. Further, the Employer argues that these employees do not possess any traditional craft skills or functional distinction by virtue of which they might form units appropriate

<sup>1</sup> Nonexempt employees are those to whom the Fair Labor Standards Act applies.

<sup>2</sup> National Association of Broadcast Employees and Technicians, herein called NABET, the Petitioner in Cases 2-RC-18904, 2-RC-18905, and 2-RC-18906, is participating as Intervenor in Case 2-RC-18867. At the hearing in the latter case, NABET supported the unit position of the Petitioner.

for bargaining. For the reasons set forth below, we find merit in the Employer's position, and therefore we shall dismiss the instant petitions.

All nine employees involved in Case 2-RC-18867 are classified as employees of the Transport Center. Their primary function is arranging for the movement and delivery of video cassettes, films, supplies, and equipment used in the Employer's news broadcast operations throughout the world. In this connection, they pack and label such materials, coordinate shipping, and assign couriers to pick up and deliver items. At the direction of news producers and executives, the employees hire aircraft and helicopters for the transportation of personnel and materials.

Six of the employees are called "transport coordinators" and the other three are designated as "airport clearance clerks." Four of the transport coordinators work in a newsroom located on the third floor at 7 West 66th Street; the other two work in the main floor shipping room at 45 West 66th Street. The three airport clearance clerks are stationed in an office located near J.F.K. International Airport, and they also cover LaGuardia and Newark airports when necessary. All of the employees in question prepare and maintain a number of logs, reports, forms, and labels, and operate typewriters, photocopying equipment, radio consoles, and Rapidfax machines. The airport clearance clerks occasionally use an automobile to carry items to various locations at the airport. In the process of handling overseas shipments, the airport clearance clerks also complete and file U.S. Customs Bureau forms.

Both positions require merely a high school education and entail an on-the-job training period of between 3 to 6 months. The Regional Director deemed it significant that the airport clearance clerks must be familiar with all airline schedules and customs regulations, and that no other employees complete the same types of papers—particularly U.S. Customs forms—as do the nine employees in the unit sought. Those responsibilities, however, do not demand any expertise, since all of the flight information and customs rules, rates, and duties readily are found simply by reference to books and manuals kept at hand. The record shows that a large number of other clericals employed by the Employer prepare similar logs and reports and, although the specific forms may differ from department to department, their completion requires the same clerical functions.

The transport coordinators and airport clearance clerks do not share common, separate supervision. The former are supervised by the Employer's manager of transportation, while the latter report to the

manager of airport clearance. Further, the nine employees do not share a common work area that is separate from other employees, nor do they all share common working hours. At least four of the employees—the transport coordinators who work in the third floor newsroom—have frequent contact with other employees, primarily library film tape coordinators, managers, assignment editors, and desk assistants. In addition, all nine employees in question are in daily telephone contact with other unrepresented employees. There is no evidence of any regular contact or job interchange among the two groups of transport coordinators and one group of airport clearance clerks, who are separated at three different locations.

Moreover, the record shows that the transport coordinators and airport clearance clerks receive the same benefits and are paid according to the same rate structure as all other nonexempt clerical employees of the Employer in New York City; are recruited and hired through a centralized personnel office; are subject to the same personnel policies as are other clericals; and are covered by an internal job-posting system that encourages transfer and promotion throughout all of the Employer's clerical positions, including those in the Transport Center.

In view of the foregoing, we find no basis for concluding that the transport coordinators and airport clearance clerks share a community of interest separate from that of other nonexempt, unrepresented clerical employees. Thus, we find that the unit requested by the Petitioner in Case 2-RC-18867 is inappropriate for the purposes of collective bargaining.

As mentioned above, in Cases 2-RC-18904, 2-RC-18905, and 2-RC-18906, the Acting Regional Director found appropriate the sought units of PBX operators, shipping and supply clerks, and mail and messenger employees, respectively. We likewise conclude that these three separate units are unwarranted by the circumstances here.

The PBX operators receive and place telephone calls in a sixth floor room at the Employer's headquarters building. Their work is directed by the chief and assistant chief operators and four other supervisors. Contrary to the Acting Regional Director's findings, the evidence indicates that the PBX operators work in proximity to other unrepresented clerical personnel, maintain daily telephone contact with other employees, particularly secretaries, and regularly interact with telephone inventory clerks and central file clerks. The operators prepare toll tickets for cost accounting purposes on outgoing calls. They also are responsible for logging and reporting viewer and listener telephone communi-

cations concerning specific programs broadcast by the Employer.

The shipping, receiving, and supply clerks work at four different loading docks and supply offices at the headquarters building and the Employer's facility at 30 West 67th Street. Under the supervision of the director of corporate traffic, they unload trucks, move and deliver items to proper areas, maintain logs, complete forms, keep records, and fill general stock supply requisitions. The record demonstrates that many shipping and supply clerks transfer to other clerical jobs, and that shipping clerks have extensive contact with both represented and unrepresented employees.

The mail and messenger operation employees sought by the Petitioner work in 6 mailrooms at headquarters, as well as at about 18 mailrooms in the Employer's other facilities in New York City. They are supervised by day and night mail managers, and maintain regular contact with other unrepresented employees, such as secretaries, receptionists, bindery employees, postage meter clerks, and photocopy employees. The mail and messenger employees sort and deliver incoming mail, compile mailing lists, operate automatic envelope and addressing machines, transport work to and from copying centers, and keep records and documents for accounting purposes.

Although the PBX operators, shipping and supply clerks, and mail and messenger employees are supervised separately, do not interchange jobs with other employees, and work within their separate departments, they have much in common with other clericals employed by the Employer. They all are unskilled, are required to have no more than a high school education, undergo a short period of on-the-job training, receive the same fringe benefits

which are administered by a central personnel office, are paid under a uniform salary structure, have recourse to the same internal grievance procedure, and perform similar recordkeeping, reporting, expediting, packaging, and delivery functions. All the sought employees have as much or more contact with employees outside the proposed units as within each unit, and none of the three groups has a common work area separate from other employees.

As in the case of the transport coordinators and airport clearance clerks discussed earlier, we find no evidence to support the Petitioner's assertion that the employees sought in the respective units share a sufficient community of interest apart from that of other clerical employees of the Employer. This holding is consistent with the Board's decision in 1974 in *American Broadcasting Company, A Division of American Broadcasting Companies, Inc.*,<sup>3</sup> that two separate groups of coordinating and scheduling clericals employed by the Employer in New York City did not constitute units appropriate for bargaining.

For the foregoing reasons, we find that none of the four petitioned-for groups of employees constitute appropriate bargaining units.<sup>4</sup> Accordingly, we shall dismiss the petitions herein.

#### ORDER

It is hereby ordered that the petitions herein be, and they hereby are, dismissed.

<sup>3</sup> 210 NLRB 654.

<sup>4</sup> In view of our holding with respect to the PBX operators, we find it unnecessary to determine whether the PBX clerk-typist should be included in a unit with the operators.